



W.P.No.17780 of 2019
and W.M.P.Nos.17186 & 17189 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.17780 of 2019
and
W.M.P.Nos.17186 & 17189 of 2019

D.Sivakumar

... Petitioner

Vs.

The Dean,
Rajiv Gandhi Government
General Hospital,
Chennai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order in claim petition No.110/2016 passed by the Presiding Officer, III Additional Labour Court, Chennai and quash the same as illegal in so far as it has not allowed the petitioner's claim to the extent of Rs.1,37,854/- and further direct the respondent to disburse the same to the petitioner within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr.Balan Haridas

For Respondent : Ms.Rajarajeswari,
Government Advocate



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ORDER

Heard the learned counsel for the petitioner and learned Government Advocate for the respondent.

2.Challenge in this writ petition is made to the order dated 01.09.2018 in Claim Petition No.110/2016 passed by the III Additional Labour Court, Chennai.

3.The Director of Medical Education, Chennai and the Society for Education and Women Development, Chennai entered into an agreement on 27.04.2005 with the petitioner. In accordance with the agreement, the petitioner was engaged as hospital worker in the respondent hospital on 25.06.2005. The petitioner was paid wages by the respondent hospital. The aforesaid agreement dated 27.04.2005 lapsed and thereafter, the petitioner continued his employment with the respondent till his termination on 26.07.2012.

4.The petitioner raised an Industrial Dispute challenging his



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termination in I.D.No.67/2015 before the III Additional Labour Court, Chennai. The III Additional Labour Court, Chennai vide its orders dated 28.08.2015 passed an Award directing the respondent to reinstate the petitioner with continuity of service and 25% backwages from the date of retrenchment. The respondent neither challenged the Award nor reinstated the petitioner into service as directed by the Labour Court. Hence, the petitioner filed a claim petition under Section 33C(2) of the Industrial Disputes Act, 1947 in Claim Petition No.110/2016 before the III Additional Labour Court, Chennai claiming an amount of Rs.1,57,056/- towards backwages and the wages due to the petitioner. The III Additional Labour Court, Chennai after analyzing the evidence on record allowed the claim petition by holding that the petitioner was entitled for a sum of Rs.19,202/-. Aggrieved by the said orders of the Labour Court, the present writ petition is filed.

5.Mr.Balan Haridas, learned counsel for the writ petitioner submitted that when the respondent had not challenged the Award passed by the Labour Court, the respondent was bound to comply with the same. He further submitted that the respondent had not regularized the



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petitioner's service from the date of the Award i.e. from 28.08.2015 to 30.06.2016. That apart, the petitioner was also entitled to basic pay of Rs.4,800/- for the said period. He further submitted that the petitioner was entitled to Rs.9,174/- for ten months towards 25% backwages. The Labour Court erred in concluding that G.O.Ms.No.234 dated 01.06.2009 did not apply to the petitioner. The learned counsel submitted that as the respondent failed to reinstate the petitioner into service, the petitioner was entitled to full wages from the date of the Award till the date of the claim petition. He called upon this Court to set aside the order passed by the Labour court and to direct the Labour Court to allow the claim of the petitioner.

6.Ms.Rajarajeswari, learned Government Advocate submitted that the Labour Court had rightly held that G.O.Ms.No.234 dated 01.06.2009 will not apply to the petitioner. She further submitted that the findings of the Labour Court which are based on proper appreciation of the materials on record should not be interfered with.

7. I have carefully considered the rival submissions and the



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materials on record. In so far as the Award towards 25% back wages is concerned, there is no dispute. Hence, the Award of Rs.9,174/- towards 25% backwages for the period from 26.07.2012 to 27.08.2015 at the rate of Rs.990/- (last drawn wages) is confirmed. In so far as the computation of full wages and other benefits commencing from the date of the Award ie., 28.08.2015 till the date of the petition i.e. 30.06.2016 is concerned, the petitioner has claimed Rs.1,37,854/- at the rate of Rs.4,800/- as basic pay. It is not in dispute that as per the revised pay scales with grade pay in schedule-1, the scale of pay starts from Rs.2,550/-, which has been revised as Rs.4,800/- with Grade pay of Rs.1,300/-.

8.The question is whether the said G.O.Ms.No.234 will apply to the petitioner's case. The learned Government Advocate for the respondent submitted that the petitioner was paid a sum of Rs.990/- only at the time of his termination and therefore, G.O.Ms.No.234 would not apply to the petitioner. The said contention cannot be accepted, for more than one reason. At the time of termination of the petitioner, he was under the direct employment of the respondent and therefore, on his



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reinstatement with continuity of service, the petitioner would be entitled to full wages and not last drawn wages. Hence, when the petitioner was reinstated with continuity of service, on his reinstatement, he would be entitled to regular time scale of pay of Rs.4,800/-. Therefore, the Award of the Labour Court restricting the full wages for the period from 28.08.2015 to 30.06.2016 cannot be sustained. The petitioner will be entitled to Rs.1,37,854/- towards full wages for the period from 28.08.2015 to 30.06.2016. The respondent is directed to pay the aforesaid amount within a period of eight weeks from the date of the receipt of a copy of this order.

9. Accordingly, this Writ Petition is Partly Allowed. No costs.
Consequently, connected Writ Miscellaneous Petitions are closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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To

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N.MALA, J.

mtl

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